

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

ANTHONY MICHAEL HARRIS,

Plaintiff,

v.

CIVIL ACTION NO. 5:23-cv-00670

W. HOLZAPFEL, K. HECKARD,  
and D. RICH,

Defendants.

**ORDER**

Pending is Plaintiff Anthony Michael Harris’ Motion to Dismiss [Doc. 7], filed November 9, 2023. This action was previously referred to the Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on November 13, 2023. Magistrate Judge Aboulhosn recommended that the Court grant Mr. Harris’ Motion to Dismiss, deny as moot Mr. Harris’ Application to Proceed Without Prepayment of Fees and Costs, dismiss Mr. Harris’ Complaint without prejudice, and remove this matter from the docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made*.” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-*

*Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on November 30, 2023. No objections were filed.<sup>1</sup>

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 8**], **GRANTS** Mr. Harris’ Motion to Dismiss [**Doc. 7**], **DENIES AS MOOT** Mr. Harris’ Application to Proceed Without Prepayment of Fees and Costs [**Doc. 1**], **DISMISSES** Mr. Harris’ Complaint [**Doc. 2**], and **REMOVES** this matter from the docket.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: December 5, 2023



*Frank W. Volk*  
 Frank W. Volk  
 United States District Judge

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<sup>1</sup> On November 6, 2023, Mr. Harris mailed a Motion for Extension of Time [Doc. 9] requesting thirty (30) days to amend his Complaint, which was docketed on November 17, 2023. In his November 9, 2023, Motion to Dismiss [Doc. 7], however, Mr. Harris requests the Court to “disregard the Motion for Thirty (30) Day Extension mailed out November 6, 2023.” Accordingly, the Court **DENIES AS MOOT** Mr. Harris’ Motion for Extension of Time [**Doc. 9**].